

AMENDED IN ASSEMBLY MAY 5, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2306

Introduced by Assembly Member Karnette
(Coauthors: Assembly Members Davis, Dymally, and Horton)
(Coauthors: Senators Calderon and Kuehl)

February 21, 2008

An act to amend Section 1473.5 of the Penal Code, relating to battering.

LEGISLATIVE COUNSEL'S DIGEST

AB 2306, as amended, Karnette. Battering: writ of habeas corpus.

Existing law, operative until January 1, 2010, establishes circumstances under which a writ of habeas corpus may be prosecuted for certain violent felonies on the basis of expert testimony regarding intimate partner battering that was not received in evidence at trial; and may be sufficient to undermine confidence in the conviction, as specified.

This bill would extend the ~~operative date~~ *operation* of those provisions until January 1, 2020.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1473.5 of the Penal Code is amended to
- 2 read:
- 3 1473.5. (a) A writ of habeas corpus also may be prosecuted
- 4 on the basis that expert testimony relating to intimate partner

1 battering and its effects, within the meaning of Section 1107 of
2 the Evidence Code, was not received in evidence at the trial court
3 proceedings relating to the prisoner's incarceration, and is of such
4 substance that, had it been received in evidence, there is a
5 reasonable probability, sufficient to undermine confidence in the
6 judgment of conviction, that the result of the proceedings would
7 have been different. Sections 1260 to 1262, inclusive, apply to the
8 prosecution of a writ of habeas corpus pursuant to this section. As
9 used in this section, "trial court proceedings" means those court
10 proceedings that occur from the time the accusatory pleading is
11 filed until and including judgment and sentence.

12 (b) This section is limited to violent felonies as specified in
13 subdivision (c) of Section 667.5 that were committed before August
14 29, 1996, and that resulted in judgments of conviction after a plea
15 or trial as to which expert testimony admissible pursuant to Section
16 1107 of the Evidence Code may be probative on the issue of
17 culpability.

18 (c) If a petitioner for habeas corpus under this section *has*
19 previously filed a petition for writ of habeas corpus, it is grounds
20 for denial of the new petition if a court determined on the merits
21 in the prior petition that the omission of expert testimony relating
22 to battered women's syndrome or intimate partner battering and
23 its effects at trial was not prejudicial and did not entitle the
24 petitioner to the writ of habeas corpus.

25 (d) For purposes of this section, the changes that become
26 effective on January 1, 2005, are not intended to expand the uses
27 or applicability of expert testimony on battering and its effects that
28 were in effect immediately prior to that date in criminal cases.

29 (e) This section shall remain in effect only until January 1, 2020,
30 and as of that date is repealed, unless a later enacted statute, that
31 is enacted before January 1, 2020, deletes or extends that date.